

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE CAPACITORS ANTITRUST LITIGATION

Master File No. 3:17-md-02801-JD
Case File No. 3:14-cv-03264-JD

THIS DOCUMENT RELATES TO:
THE DIRECT PURCHASER CLASS ACTION

**ORDER RE REPORT AND
RECOMMENDATIONS OF SPECIAL
MASTER, AND ATTORNEYS' FEES
AND EXPENSES**

The Court has reviewed the Report and Recommendations of the Special Master on the Direct Purchaser Plaintiff Class Counsel's Request for Attorneys' Fees and Reimbursement of Expenses (R&R), MDL ECF No. 1397,¹ which was prepared and submitted pursuant to the July 29, 2020 Order Appointing Special Master Monica Ip, MDL ECF No. 1366. As stated in the Direct Purchaser Class's motion to adopt the R&R, MDL ECF No. 1400, Class Counsel for the Direct Purchaser Class does not

¹ "MDL ECF No. ____" citations are to Case No. 3:17-md-02801.

1 object, and asks the Court to adopt the R&R. No other party, or any non-party, has objected to or
2 challenged the R&R in any way.

3 The Court has also reviewed the motion for attorneys' fees and expenses, which requests awards
4 in the amounts of (a) \$69,615,000 for fees accrued as of December 31, 2019; and (b) \$9,062,184.75 to
5 fully cover all litigation costs and expenses incurred through December 31, 2019, and partially cover
6 litigation costs and expenses incurred in calendar year 2020. MDL ECF No. 1362. The application for
7 attorneys' fees and reimbursement of expenses was made in connection with the Class's motion for
8 final approval of settlements with AVX, ELNA, Holy Stone, KEMET, Panasonic, Shinyei, Shizuki and
9 Taitso.

10 The Court finds that Special Master Ip's R&R was well-reasoned and amply supported by the
11 record, and adopts it in full, including all of its determinations and recommendations, and its validation
12 of the lodestar amount. *See* MDL ECF No. 1397 (lodestar figures).

13 The settlements achieved by the Direct Purchaser Class and their attorneys with AVX, ELNA,
14 Holy Stone, KEMET, Panasonic, Shinyei, Shizuki and Taitso have recovered \$232,050,000 in damages
15 (the Settlement Fund) on behalf of the victims of the price-fixing conspiracy. The settlement with
16 Panasonic also obligates it to continue to cooperate under the Antitrust Criminal Penalty Enhancement
17 and Reform Act of 2004, P.L. 108-237, with the Class's prosecution of the claims against the non-
18 settling defendants. These settlements follow three earlier rounds of settlements with nine other
19 defendant corporate families. The Court entered orders granting final approval of the prior three rounds
20 of settlements on June 27, 2017, June 28, 2018, and May 16, 2019. ECF No.² 1713; MDL ECF Nos.
21 249, 587.

22 The damages recovered on behalf of the Class are substantial, and go far in redressing the harm
23 to the purchasers and markets for capacitors that the conspiracy inflicted. The MDL litigation has been
24 hard-fought by both sides, and required an enormous amount of work to collect evidence in the United
25 States and several overseas countries, bring and defend complex motions, and prepare a sprawling case
26 for a jury trial. Class Counsel prosecuted the case with skill and vigor, and achieved strongly positive
27

28 ² "ECF No. ____" citations are to Case No. 3:14-cv-03264-JD.

1 results. The Court also appreciated the professionalism and spirit of cooperation that Class Counsel
2 brought to the proceedings.

3 Consequently, the Court finds that Class Counsel's attorneys' fees request is fair and reasonable,
4 and commensurate with the results obtained for the Class. The fees are appropriate under the
5 percentage-of-the-recovery method. Counsel's request of \$69,615,000 in attorneys' fees constitutes
6 30% of the Settlement Fund created by the present round of settlements, but on a cumulative basis
7 across all four rounds of settlements, Class Counsel's requested fee award would amount to 27.6% of
8 the total settlements reached. While this is on the high side, Class Counsel's hard work and excellent
9 results warrant it, particularly in light of the fact that they undertook this case on a contingency basis,
10 and that the class members, who had notice of the fees request, did not object or express any concerns.
11 The Court also finds the attorneys' fees request to be reasonable after conducting a lodestar cross-check.

12 The Court awards expenses in the amount specified in the R&R. The Special Master found that
13 unreimbursed expenses through July 24, 2020, totaled \$9,548,764.41. MDL ECF No. 1397 at 7. These
14 expenses were reasonably and necessarily incurred in the ordinary course of prosecuting this MDL
15 case. The \$9,548,764.41 is to be paid from the Settlement Fund.

16 For the \$69,615,000 fees award, the Court directs 15% of that amount to be withheld pending
17 completion of the Post-Distribution Accounting required by the Northern District's Procedural
18 Guidance for Class Action Settlement, and further order of the Court. The expenses may be paid in full
19 without a withholding.

20 **IT IS SO ORDERED.**

21 Dated: November 7, 2020



HON. JAMES DONATO
United States District Judge